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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/864,113	05/24/2001	Carl Phillip Gusler	AUS920010251US1	1463
45993	7590	12/15/2005	EXAMINER	
IBM CORPORATION (RHF) C/O ROBERT H. FRANTZ P. O. BOX 23324 OKLAHOMA CITY, OK 73123			RHODE JR, ROBERT E	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/864,113

Applicant(s)

GUSLER ET AL

Examiner

Rob Rhode

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Response to Amendment*

Applicant amendment of 10-18-05 traversed rejections of Claims 1 - 27.

Currently, claims 1- 27 are pending.

### *Claim Rejections - 35 USC § 102*

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 3, 4, 8, 9, 10, 12, 13, 17, 18, 19, 21, 22, 26 and 27 are rejected under 35 U.S.C. 102(b) as being in public use as evidenced by “Surfing; [Cook/Dupage/Fox Valley/Lake/McHenry Edition]; Daily Herald; Arlington Heights, Ill; Dec 6, 1999 and Odigo.com web pages of May 10, 2000 captured via the WayBackMachine (archieve.org) and hereafter collectively referred to as “Odigo”.**

Please note that each of the NPL documents pre-date the filing of the applicant's invention by 1 year.

Regarding Claim 1 and related claims 10 and 19 (previously amended), Odigo teaches a method and system for providing enhanced online shopping experiences to online shoppers for automatic association of two or more online shoppers, said method comprising the steps of: searching a list of concurrently online shoppers according to a set of search criteria, said shoppers each contemporarily being a user of a common virtual shopping resource, said shoppers being otherwise disassociated with each other

(see at least pages 1 – 8 and 11 - 13); notifying a first online shopper that at least one other concurrently online shopper meets said search criteria; and automatically associating said first online shopper with said one or more concurrently online shoppers meeting said criteria (see at least pages 1 - 2 and 7 - 9).

Regarding Claim 3 and related claims 12 and 21 (original), Odigo teaches a method wherein said step of searching a list of concurrently online shoppers according to a set of search criteria comprises searching by an online shopper name criteria (Page 5 and 9).

Regarding claim 4 and related claims 13 and 22, Odigo teaches a method wherein said step of searching a list of concurrently online shoppers according to a set of search criteria comprises searching by an online shopper position criteria (Page 7).

Regarding claim 8 and related claims 17 and 26, Odigo teaches a method wherein said step of automatically associating said first online shopper with said one or more concurrently online shoppers comprises establishing a communications session between said online shoppers (Pages 7 and 11).

Regarding claim 9 and related claims 18 and 27, Odigo teaches a method wherein said step of establishing a communications session between said online shoppers further comprises making a record of said communications session (pages 7 and 11). Please

note that Odigo does not specifically disclose recording the communication session. However, it is old and well known that these chat/communications sessions can and are saved in a database, which is effectively a recording. In this manner, the individuals will be able at a later to review their online chat sessions as necessary.

**Claims 2, 11 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Odigo as applied to claims 1 and 19 above, and further in view of Wong (US 6,708,172).**

Odigo discloses and teaches substantially the applicant's invention.

However, the combination does not specifically disclose and teach a method and system wherein said step of notifying a first online shopper comprises providing a buddy position indicator on a graphical map of an online shopping mall.

On the other hand and in the same area of concurrently online shoppers and regarding Claim 2 and related claims 11 and 20 (original), Wong teaches a method wherein said step of notifying a first online shopper comprises providing a buddy position indicator on a graphical map of an online shopping mall (see at least Col 23, lines 36 – 67 and Col 24, lines 1- 3).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the method and system of Odigo with the method and system of Wong to have enabled a method and system wherein said step of notifying a first online shopper comprises providing a buddy position indicator on a graphical map of an online shopping mall. Odigo discloses a method and system for searching for and notification and associating with other concurrently online shoppers who match a buddy list. Wong discloses a method and system wherein said step of notifying a first online shopper comprises providing a buddy position indicator on a graphical map of an online shopping mall (see at least page). Therefore, one of ordinary skill in the art would have been motivated to extend Odigo with a method and system wherein said step of notifying a first online shopper comprises providing a buddy position indicator on a graphical map of an online shopping mall. In this manner, the online shoppers will be able to physically locate each other and thereby enjoy companionship during a shopping session.

**Claims 5, 6, 14, 15 and 23 – 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Odigo as applied to claims 1, 10 and 19 above, and further in view of Banks (US 2002/0095465 A1).**

Odigo discloses and teaches substantially the applicant's invention.

However, Odigo does not specifically disclose and teach a method and system wherein said step of searching a list of concurrently online shoppers according to a set of search criteria comprises searching by an online shopper interest term criteria or a method wherein said step of searching a list of concurrently online shoppers according to a set of search criteria comprises searching by an online shopper position proximity criteria.

On the other hand and regarding claim 5 and related claims 14 and 23, Banks teaches a method wherein said step of searching a list of concurrently online shoppers according to a set of search criteria comprises searching by an online shopper interest term criteria (Page 4, Para 0064).

Regarding claim 6 and related claims 15 and 24, Banks teaches a method wherein said step of searching a list of concurrently online shoppers according to a set of search criteria comprises searching by an online shopper position proximity criteria (Page 4, Para 0064).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the method and system of with the method and system of Banks to have enabled a method and system wherein said step of searching a list of concurrently online shoppers according to a set of search criteria comprises searching by an online shopper interest term criteria or a method wherein said step of searching a list of concurrently online shoppers according to a set of search criteria comprises searching

by an online shopper position proximity criteria. Odigo discloses a method and system for searching for and notification and associating with other concurrently online shoppers who match a buddy/friends list. Banks discloses a method and system wherein said step of searching a list of concurrently online shoppers according to a set of search criteria comprises searching by an online shopper interest term criteria or a method wherein said step of searching a list of concurrently online shoppers according to a set of search criteria comprises searching by an online shopper position proximity criteria (see at least Abstract and Para 0060 and 0064). Therefore, one of ordinary skill in the art would have been motivated to extend Odigo with a method and system wherein said step of searching a list of concurrently online shoppers according to a set of search criteria comprises searching by an online shopper interest term criteria or a method wherein said step of searching a list of concurrently online shoppers according to a set of search criteria comprises searching by an online shopper position proximity criteria. Thereby, the online shopper can locate and communicate with individuals of similar tastes, which will include more meaningful recommendations for other online shopping sites.

**Claims 7, 16 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Odigo as applied to claims 1, 10 and 19 above, and further in view of Ferreira (US 2001/0034661 A1).**

Odigo substantially discloses and teaches the applicant's invention.



While Odigo does disclose automatically associating of online shoppers, the reference does not specifically disclose and teach a method and system wherein said step of automatically associating said first online shopper with said one or more concurrently online shoppers comprises setting position coordinates for both shoppers to equivalent values.

On the other hand in the same area of online method and systems and regarding claim 7 and related claims 16 and 25, Ferreira teaches a method and system wherein said step of automatically associating said first online shopper with said one or more concurrently online shoppers comprises setting position coordinates for both shoppers to equivalent values (see at least Abstract and Figures 4, 5 and 16).

It would have been obvious to one of ordinary skill in the art at the time of the invention to have provided Odigo with the a method and system of Ferreira to have enabled a method and system wherein said step of automatically associating said first online shopper with said one or more concurrently online shoppers comprises setting position coordinates for both shoppers to equivalent values. Odigo discloses a method and system for searching for and notification and associating with other concurrently online shoppers who match a buddy list. Ferreira disclose a method and system wherein said step of automatically associating said first online shopper with said one or more concurrently online shoppers comprises setting position coordinates for both shoppers

to equivalent values (Abstract and Figures 4, 5 and 16). Therefore, it would have been obvious to one of ordinary skill in the art to have extended Odigo with a method and system wherein said step of automatically associating said first online shopper with said one or more concurrently online shoppers comprises setting position coordinates for both shoppers to equivalent values.

### ***Response to Arguments***

Applicant's arguments filed 10-18-05 have been fully considered but they are not persuasive.

Applicant argues that Odigo does not disclose or teach that users/shoppers are not "otherwise disassociated".

First, the Applicant did not specifically define nor even use the word "disassociated" in their specification. In that regard and in a reasonably broad interpretation of the word "disassociated" and as defined by Merriam-Webster's Dictionary - "as detached from association", Odigo would teach that one online user/shopper is "detached" from another when the new friend/user/shopper is not aware of nor even know the other user/shopper previously – or is even that the other user/shopper is online. Moreover in the Applicant's specification examples, AOL buddies can add new friends to their list. In order for these two "new" friends to communicate via AOL Instant messaging with the others - they must have the same

software (i.e. AOL Instant Messaging) to communicate and thereby are associated in the AOL Instant Messaging community. In this case, Odigo members/users/shoppers can introduce themselves to a fellow Odigo user/shoppers, who they are not currently associated with - since new user/shopper/friend does not know the other as well as the "new" user/shopper is not even aware that the other user/shopper is online. For example, Odigo would teach one of ordinary skill the capability to find through "People-Finder" new friends and introduce oneself to another user/new friend/shopper- that currently does not know them or is even aware that they are on the internet (Page 1, 3-5 and 11-13). Thereby and prior to the introduction, the new users/shopper/friend is "detached" and "otherwise disassociated" from the other user/shopper.

Please note that a "traverse" is a denial of an opposing party's allegations of fact.<sup>1</sup> The Examiner respectfully submits that applicants' arguments and comments do not appear to traverse what Examiner regards as knowledge that would have been generally available to one of ordinary skill in the art at the time the invention was made. Even if one were to interpret applicants' arguments and comments as constituting a traverse, applicants' arguments and comments do not appear to constitute an adequate traverse because applicant has not specifically pointed out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. 27 CFR

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<sup>1</sup> Definition of Traverse, Black's Law Dictionary, "In common law pleading, a traverse signifies a denial."

Art Unit: 3625

1.104(d)(2), MPEP 707.07(a). An adequate traverse must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying Examiner's notice of what is well known to one of ordinary skill in the art. In re Boon, 439 F.2d 724, 728, 169 USPQ 231, 234 (CCPA1971).

If applicant does not seasonably traverse the well known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943). MPEP 2144.03 Reliance on Common Knowledge in the Art or "Well Known" Prior Art. In view of applicant's failure to adequately traverse official notice, the following is admitted prior art:

Regarding claim 9 and related claims 18 and 27, Odigo teaches a method wherein said step of establishing a communications session between said online shoppers further comprises making a record of said communications session (pages 7 and 11). Please note that Odigo does not specifically disclose recording the communication session. However, it is old and well known that these chat/communications sessions can and are saved in a database, which is effectively a recording. In this manner, the individuals will be able at a later to review their online chat sessions as necessary.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Rob Rhode** whose telephone number is **571.272.6761**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Wynn Coggins** can be reached on **571.272.7159**.

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

**Alexandria, Va. 22313-1450**

or faxed to:

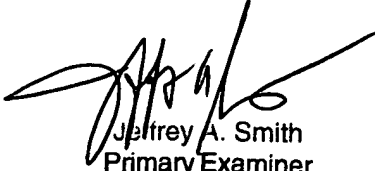
**571.273.8300**

[Official communications; including  
After Final communications labeled  
"Box AF"]

[Informal/Draft communications, labeled

"PROPOSED" or "DRAFT"]

RER



Jeffrey A. Smith  
Primary Examiner